

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK McCALL,

Petitioner,

Case No. 1:07-cv-1077

v.

Honorable Wendell A. Miles

STATE OF LOUISIANA,

Respondent.

ORDER OF DISMISSAL

This is a habeas corpus proceeding brought by a Louisiana state prisoner pursuant to 28 U.S.C. § 2254. On August 22, 1989, Petitioner was convicted of simple robbery in Caddo Parish, LA. He subsequently was convicted of being a fourth felony offender and sentenced to imprisonment for twenty years. This is the third such petition filed by Mr. McCall in this Court. *See McCall v. Wilkinson*, No. 1:06-757 (W.D. Mich.); *McCall v. Wilkinson*, No. 1:06-cv-575 (W.D. Mich.). Petitioner's previous actions were dismissed for lack of venue on September 8, 2006, and November 13, 2006, respectively. Like his previous applications for habeas corpus relief, Petitioner claims that he was denied the effective assistance of counsel in his criminal proceedings.

Venue in habeas corpus actions is governed by 28 U.S.C. § 2241. That statute allows a petition to be filed either in the district where petitioner is in custody or in the district in which petitioner was convicted. 28 U.S.C. § 2241(d). Petitioner presently is incarcerated in a state prison in Winnfield, Louisiana. As set forth above, Petitioner was convicted in Caddo Parish, Louisiana. Venue,

therefore, is improper in the Western District of Michigan. Accordingly, the petition is DISMISSED pursuant to 28 U.S.C. § 1406(a).

IT IS SO ORDERED.

Dated: November 8, 2007

/s/ Wendell A. Miles

Wendell A. Miles

Senior United States District Judge